

**THE COMMON COUNCIL OF THE CITY OF NEW ALBANY,  
INDIANA HELD A MEETING IN THE CITY/COUNTY BUILDING  
ON MONDAY, APRIL 3, 2006.**

**MEMBERS PRESENT:** Council Members Mr. Coffey, Mr. Schmidt, Mr. Price, Mr. Kochert, Ms. Crump, Mr. Seabrook, Mr. Blevins, Mr. Messer and President Jeff Gahan.

**OTHERS:** Council Attorney Jerry Ulrich and City Clerk Marcey Wisman.

**ALSO:** John Rosenbarger, Adam Dickey, Scott Wood, Planning and Zoning, Brian Dixon, EMC, Paul Wheatley, Economic Development Director, Tony Toran, Director of City Operations and Mayor James E. Garner, Sr.

**ROLL CALL:**

**APPROVAL OR CORRECTION OF THE FOLLOWING MINUTES:**

**Mr. Schmidt moved to approve the March 16, 2006 minutes, Mr. Price second, all voted in favor by show of hands. Blevins and Messer abstained.**

**Mr. Coffey motioned to approve the special meeting minutes of March 8, 2006, Mr. Price second, all voted in favor by show of hands. Messer abstained.**

**Mr. Seabrook moved to suspend the rules and amend the agenda to move the CF-1s forward, Mr. Coffey second, all voted in favor by show of hands.**

**APPROVAL OF CF-1 FORMS:**

Wood and Horrell, LLC, Compliance with Statement  
of Benefits, Referencing R-99-08

**Mr. Schmidt moved to approve, Mr. Kochert second, all voted in favor by show of hands.**

Product Specialties, Inc., Compliance with Statement  
of Benefits, Referencing R-98-17

**Ms. Crump moved to approve, Mr. Price second, all voted in favor by show of hands.**

Tarco Investments, Ltd, Compliance with Statement  
of Benefits, Referencing R-04-07

**Mr. Coffey moved to approve, Mr. Messer second, all voted in favor by show of hands.**

PAAR, LLC, Compliance with Statement of Benefits,  
Referencing R-04-32

**Mr. Seabrook moved to approve, Ms. Crump second, all voted in favor by show of hands. Gahan abstained.**

L & D Mail Masters, Inc, Compliance with Statement  
of Benefits, Referencing R-02-18, R-01-13, R-97-42,  
R-97-46 and R-98-08

**Mr. Messer moved to approve, Mr. Seabrook second, all voted in favor by show of hands.**

Foam Fabricators, Inc., Compliance with Statement of  
Benefits, Referencing R-95-31

**This item was tabled because there was no representative present. Mr. Price also wanted to check into the time limit on this one.**

Monroe Shine & Co., Inc., Compliance with Statement  
Of Benefits, Referencing R-99-07

**Mr. Seabrook moved to approve, Mr. Crump second, all voted in favor by show of hands.**

Sunnyview, LLC, Compliance with Statement  
Of Benefits, Referencing R-01-09

**Mr. Messer moved to approve, Mr. Price second, all voted in favor by show of hands.**

John B. Shine, Compliance with Statement  
Of Benefits, Referencing R-01-31 (waiver R-02-15)  
and R-97-40.

**Ms. Crump moved to approve, Mr. Messer second, all voted in favor by show of hands.**

Gordon L. Huncilman and Jeffery Huncilman, d/b/a  
Huncilman Enterprises, Compliance with  
Statement of Benefits, Referencing R-96-3A & B

**Mr. Messer moved to approve, Mr. Seabrook second, all voted in favor by show of hands. Coffey abstained.**

General Mills Operation, Inc., Compliance with  
Statement of Benefits, Referencing R-97-23

**This item was tabled because there was no representative present.**

#### **COMMUNICATIONS – PUBLIC:**

**Bob Hansford, 1511 Knob Avenue**, spoke in opposition to Z-06-11. He explained the following four points of contention to this proposal: there is poor site distance from Camp Hill; there is an alley from the Livingston property to Knob Avenue that is not appropriate for heavy traffic and the fire department cannot use that alley to get to the those properties along with the trash trucks not being able to get back there; the homes being built on a steep slope and the land mass is moving in that area as seen on Main Street Hill; and the bulldozers will make a mess trying to level this out and may hit utility lines. He proposed that the land does not belong to Mr. Livingston and the street is owned by the city and then asked who would be liable if something went wrong. He stated that Mr. Livingstone has also not complied with the

**Warren Nash, 201 Ellen Court**, spoke against Z-06-10 which did not receive a favorable recommendation from the planning commission and asked that they turn down this project as they did the project on the corner of Daisy and Grantline. He also reminded the council that last year they approved a project by a physician on the opposite side of Ellen Court that is not complete and, in fact, has a “for rent” sign for space not being used by the doctor. He feels this proves that there is not a need for more space such as this in the area. He also stated that the project does not meet the criteria of the plan commission.

**Anna Schmidt, 202 Ellen Court**, spoke against Z-06-10. She shared with the board that the neighbors do not feel that a two story building will be in the keeping with the residential area. She also discussed drainage and stormwater and explained that there is a large amount of water flowing “like a river” from the lot of Dr. Nassim’s property to the Holy Family ball field. She complimented Mayor Overton for wanting to improve Daisy

Lane for the children and elderly that live in the area and she is confused as to why it has changed from a project for the health and safety to economic development.

**Cathy Wicke** further explained the hand out she passed out.

**Valla Ann Bolovshak, 600 E. Main Street**, made comments regarding the stormwater board ordinance as to the salaries, duties and whether the board will address creeks and drainage issues.

**Keith Foster, 307 Ellen Court**, spoke in opposition to Z-06-10 and passed out diagrams to the council illustrating the traffic issues that this will create. He explained that the opening for the proposed building is directly across from the school ingress and egress and feels that it will create safety issues for the children. He also discussed the fact that Dr. Nassim's project is only half finished and that she is advertising for rental space in half of her building.

**Greg Roberts**, reminded the council of the neighborhood forum tomorrow night at 6:30 p.m.

**Mike Naville** passed out a schematic regarding the project for Z-06-10 that did not get to the plan commission and gave an explanation of the project and why it did not receive a favorable recommendation. He addressed many of the concerns that people had regarding traffic, commercial compared to residential, and landscaping issues that they are prepared to include to appease the neighbors. He then stated the building will be compatible with Dr. Nassim's office. He also stated that the traffic from this building will be sporadic throughout the day, not large amounts at one time. He informed the council that this property will never be a single family residential property ever again and he presented letters from neighbors in favor of the project.

**Laura Oates, 2408 East Market**, spoke against Z-06-10 due to what it will do to the residential neighborhoods rather than coming to the downtown area and fixing up the buildings. She also spoke on G-06-07 regarding the set up of the stormwater board and addressed issues regarding the interim fee and her confusion as to whether or not commercial properties are paying this interim fee. She stated that there is a way to set up a three member non-paid board rather than establishing a paid board where the Mayor will get paid for being on another board and the clerk will get paid for taking their minutes.

**Maurice King, 2035 McDonald Avenue**, spoke in opposition of G-06-07. He stated that he has never agreed with there being a paid member board and doesn't agree with another Mayoral appointment because of the current problem with the building commissioner.

#### **COMMUNICATIONS – CITY OFFICIALS:**

**Ms. Wisman** offered a suggestion to create a committee to clean up the ordinance book and gave a few examples of things that need to be changed.

**Mr. Gahan** thanked Ms. Wisman for her input and acknowledged that the council would take it under advisement.

**Mr. Schmidt** presented and explained information regarding IC 8-1.5-5 to set up a stormwater board. He also presented information regarding the use of TIF money to make repairs to the sewer system. He also discussed the jail bonds possibly being released and what that money could be used for. Said information is on file in the City Clerk's office.

**Mr. Coffey** stated that he has problems with the set up of the stormwater board and he is concerned with the information regarding the financial information presented by the sewer board and feels that the council needs to contemplate whether or not they should take over the sewer utility to be sure it is being run properly.

**Mr. Schmidt** thanked Mr. Seabrook and Mr. Kochert for serving on the sewer board without payment.

**Mr. Price** stated that people feel that there is a lot of “double dipping” when there are people to be paid for being on the same boards. He also stated that he feels that if you are going to give parking tickets then give them to everyone and if you are going to forgive some then forgive all of them. He added that it has documented on video a police car bypassing a car that should have been ticketed.

### **SEWER BOARD REPORT:**

**Mr. Fifer** stated that he drafted the Stormwater Board Ordinance. He explained that the EPA has offered a compromise to their original offer of credits and they will issue 150,000 credits now assuming they are satisfied with the construction of the projects at the 10<sup>th</sup> Street pump station and the Robert E. Lee lift station on 111. He added that they would award another 200,000 credits upon completion of the 10<sup>th</sup> Street pump station and another 340,000 at the end of this year which is the target schedule to get the interceptor line to the Robert E. Lee lift station that has caused some problems. He explained that the staff has discovered a collapsed pipe at the point where those overflows have been occurring on 111 which has been fixed and during the last heavy rains, no overflows occurred but that interceptor still needs to be repaired. He explained that the engineer’s estimated cost of repairing the interceptor line is about \$1 million to \$1.2 million and the sewer board has authorized the taking of bids for that project. He stated that you take that capital project in conjunction with paying for 10<sup>th</sup> Street pump station; it appears that it will be difficult to make the principal and interest bond payment that will be due of about \$5 million. He stated that the board and the Mayor have authorized looking into other alternatives as far as finances to make sure that we don’t come up on that September payment and run into trouble. He summed up by explaining that board at this time is merely trying to identify alternative finances and before they will address raising rates, the sewer board will come before the council and discuss the matter to make sure that everyone is on the same page before that is put into motion.

**Mr. Coffey** asked how many sewer credits we are in line for.

**Mr. Fifer** replied 150,000 now and 200,000 between June and August when the 10<sup>th</sup> Street pump station project is done and then we would get 340,000 when the Robert E. Lee lift station is completed. He added that we would get the balance of the 1.1 million requested in the following year.

**Mr. Coffey** asked how many credits are requested.

**Mr. Fifer** stated that there is a list of over 600,000.

**Mr. Coffey** asked why we should continue to pass developments if there are no credits to give.

**Mr. Seabrook** replied because the sewer tap fees and the treatment fees are what are going to feed the sewer’s coffers to keep rates down and to hopefully keep increases away. He then wanted to clear the air as to his position on the sewer board and any information that has not come out immediately to the council. He explained that all committees work that way as far as decisions being made by the committee and then come before the council. He added that they asked repeatedly for financial information from Melhiser, Endres & Tucker and shared that information as soon as they received it. He then added that the day he heard from county officials that the jail bonds may be released, he called the Mayor that very day and told him that he thought he knew where they could spend that money. He has also listened to Mr. Schmidt about the TIF funds and have been very vocal about them. He vowed that he will exhaust every avenue to find money to avoid rate increases. He added that if the council wants to take over the sewer board that is also fine with him. He also addressed the stormwater issue and stated that someone has got to do something because the very thing that everyone is

complaining about as far as not getting the money into a pay fund and not having a budget is what that board is suppose to do and it got dumped on the same people that you're talking about that are on sewer board. He made it clear that he and Mr. Kochert are sewer board members and did not ask for the stormwater issue, it just got dumped on them. He added that they have worked diligently and have been honest to the best of their abilities and they are still trying to beat debt right now but he wants a board to be formed and doesn't care how it is formed. He commented that he does not care if the members get paid or not and he does not want to serve on that board and does not want to be paid, he has never "double dipped" and he doesn't plan to start "double dipping". He told the council that if someone else has a better idea, he is all ears but do not accuse of withholding information because he has never done that.

**Mr. Coffey** stated that no one was accusing Mr. Seabrook but he would like it brought out that the Mayor withheld the information from the council for six months and had he gone ahead and had it done when he requested then we may not be in as bad as shape as we are now.

**Mr. Fifer** replied that had you not continued to support sanitation out of the sewer utility, you wouldn't be in the shape that you're in today.

**Mr. Coffey** replied that didn't come before the council, it went before the board of works.

**Mr. Fifer** stated that it came before the council last year on August 1<sup>st</sup> and that was the whole purpose of having the audit done.

**Mr. Coffey** stated that the audit was asked for when they first created the sewer board.

**Mr. Fifer** stated that the audit discussion started as they were making their way through the completion of the project that the \$44 million borrowing funded and Mr. Lahanis informed them that he could not obtain reliable financial information to have a comfort level outside of what was being funded in the \$44 million dollar project. He could track what the bids went for out of the state revolving fund money against those projects and know that we weren't overspending the budget but when it came to spending outside the budget for other items such as sanitation, drainage, etc., he was afraid that he would end up holding the bag because there won't be any money at some point.

**Mr. Coffey** asked about the timeline and when the first audit took place.

**Mr. Fifer** stated that if you're not accusing Mr. Kochert and Mr. Seabrook then you are either accusing the Mayor and other two board members or him and he takes great personal offense to that.

**Mr. Coffey** replied that he is not accusing Mr. Fifer but feels that there was stonewalling going on and if he had concerns at that time why did he allow the Mayor to come before the council to request a \$500,000.00 loan from the sewer board.

**Mr. Fifer** replied that he does not patrol there; all he does is give him legal advice about how to legally borrow money from the utility. He added that was prior to having a competent financial professional come in and try to recreate books and records of the utility. He also stated that he feels confident that the Mayor would not have made that request if he had known the true state of the financial affairs of the utility at that point and time.

**There was a lengthy discourse regarding the sewer utility audit and how long it took to get it started and the timeline of the events.**

**Ms. Crump** asked why we are laying blame on one another when it was this board that finally came up with an audit because many years prior it was never done.

**Mr. Seabrook** stated that there are monies still coming out of the sewers to pay stormwater and whatever other expenses and he wants a third column on the report that reflects anything that is considered a “loan” from January 1<sup>st</sup> to present. He stated that he wants that column to be kept up year-to-date so there will be no question of what exactly is being paid out of the sewer utility.

**Mr. Price** stated that the council should take over the stormwater board and the sewer board. He also expressed concern because he has heard that Mr. Fifer represents some developers and is also representing New Albany and he has to ask if that is a conflict of interest.

**Mr. Fifer** stated that the rest of the city’s financials and every other budget that you have in this city are just as deplorable as the financial condition that the record of the sewer utility ran until this board took over and hired Melhiser, Endres & Tucker to perform an audit.

**Mr. Price** asked then why did the Mayor come before the council to borrow \$500,000.00. He stated that at that time, he disagreed and called for a freeze because the council didn’t know where the city was financially.

**Mr. Fifer** replied that he agreed with that but the audit had not been completed at that time.

**Mr. Price** stated that the solution to every problem is not more bureaucracy and not more rate increases which is what he feels the City of New Albany feels is always the solution instead of digging in and finding out what the real problem is.

**COMMUNICATIONS – MAYOR:**

None

**APPOINTMENTS:**

**INTRODUCTION OF ORDINANCES AND RESOLUTIONS:**

**READING**

G-06-04	Post Construction Runoff Control Ordinance	Kochert 1
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**Mr. Kochert introduced G-06-04 and motioned for the first reading by title only, Mr. Coffey second, all voted in favor.**

**Mr. McCormick** explained that this is the third ordinance that has to be passed prior to May and this oversees the construction for the long run of construction regarding the water quality of any run-off.

G-06-07	An Ordinance Establishing the New Albany Storm water Drainage Board Pursuant to Authority Granted by IC 36-9-23, Et Seq.	Seabrook 1
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**Mr. Seabrook introduced G-06-07 and motioned for the first reading by title only, Mr. Coffey second, all voted in favor with the exception of Mr. Schmidt and Mr. Price who voted nay.**

**Mr. Seabrook** stated that he didn’t care which statute they wanted to create this board under he just wanted a first reading.

**There was a lengthy discussion as to why this was drafted using IC 36-9-23 rather than IC 8-1.5-5.**

Z-06-09	An Ordinance for the Vacation of A Public Way Pursuant to A Petition Filed by Cathy Wicke	Crump 1
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**Mrs. Crump introduced Z-06-09 and motioned for the first reading by title only, Mr. Coffey second, Mr. Coffey, Mr. Schmidt and Ms. Crump voted aye and Mr. Price, Mr. Kochert, Mr. Blevins, Mr. Messer, Mr. Seabrook and Mr. Gahan voted nay.**

**Mr. Coffey** asked Mr. Wood if a section of this alley hasn't already been vacated for the hospital.

**Mr. Wood** stated that there may have been a portion vacated.

**Mrs. Crump** stated that the section behind Mr. Ott's property.

**Mr. Gahan** asked Ms. Wicke if she has called the police regarding these problems.

**Ms. Wicke** stated that she has but usually the problem has cleared before the police get there.

**Mr. Wood** stated that there is an 8 inch sewer line down that alley.

Z-06-10	Ordinance Amending the Code of Ordinances of New Albany, Indiana Title XV, Chapter 156 (Docket P-02-06: JonPaul, Inc.)	Crump 1
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**Mrs. Crump introduced Z-06-10 and motioned for the first reading by title only, Mr. Coffey second, Mr. Coffey, all voted nay; motion did not carry.**

Z-06-11	Ordinance Amending the Code of Ordinances of New Albany, Indiana, Title XV, Chapter 156 (Docket P-05-06: John E. Livingston)	Crump 1
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**Mrs. Crump introduced Z-06-11 and motioned for the first reading by title only, Mr. Schmidt second, all voted nay; motion did not carry.**

G-06-03	Urban Construction Site Runoff Control Ordinance	Seabrook 2&3
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**Mr. Seabrook introduced G-06-03 and motioned for the second and third readings by title only, Mr. Price second, all voted in favor. Bill No. G-06-03 became Ordinance No. Z-06-09.**

G-06-02	Storm water Illicit Discharge Control Ordinance	Kochert 3
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**Mr. Kochert moved to amend the engineer to be approved by the council, Ms. Crump, all voted in favor.**

**Mr. Kochert introduced G-06-02 and motioned for the third reading by title only, Mr. Messer second, all voted in favor. Bill No. G-06-02 became Ordinance No. G-06-10.**

Z-06-07	Ordinance Amending the Code of Ordinances of New Albany, Indiana, Title XV, Chapter 156 (Docket P- 04-06: J & S Builders, Inc.)	Crump 2&3
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**Mr. Wood** explained that the prior legal description on this PUD did not incumbent the entire meets and bounds of the PUD and asked that it be voted on as corrected.

**Ms. Crump introduced Z-06-07 and motioned for the second and third readings by title only as corrected, Mr. Coffey second, all voted in favor. Bill No. Z-06-07 became Ordinance No. Z-06-11.**

**Mr. Gahan** asked the council to look at the tabled ordinances to see if there were any that any members wanted to remove.

**Mr. Price** stated that he had told Mr. Wheatley that he would bring up the Studio 2000 Resolution and would like for it to be on the next agenda.

**Mr. Messer** stated that R-06-07 may need to go on the next agenda.

**Mr. Seabrook** asked if a drainage board committee meeting was going to be held after next meeting.

**Mr. Gahan** replied yes, it will be immediately following the regular meeting.

**Chad McCormick** presented a SWAC update report to the board.

There being no further business before the board, the meeting adjourned at 9:53 p.m.

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Jeff Gahan, President  
Common Council, City of New Albany

ATTEST: \_\_\_\_\_  
Marcey J. Wisman, City Clerk